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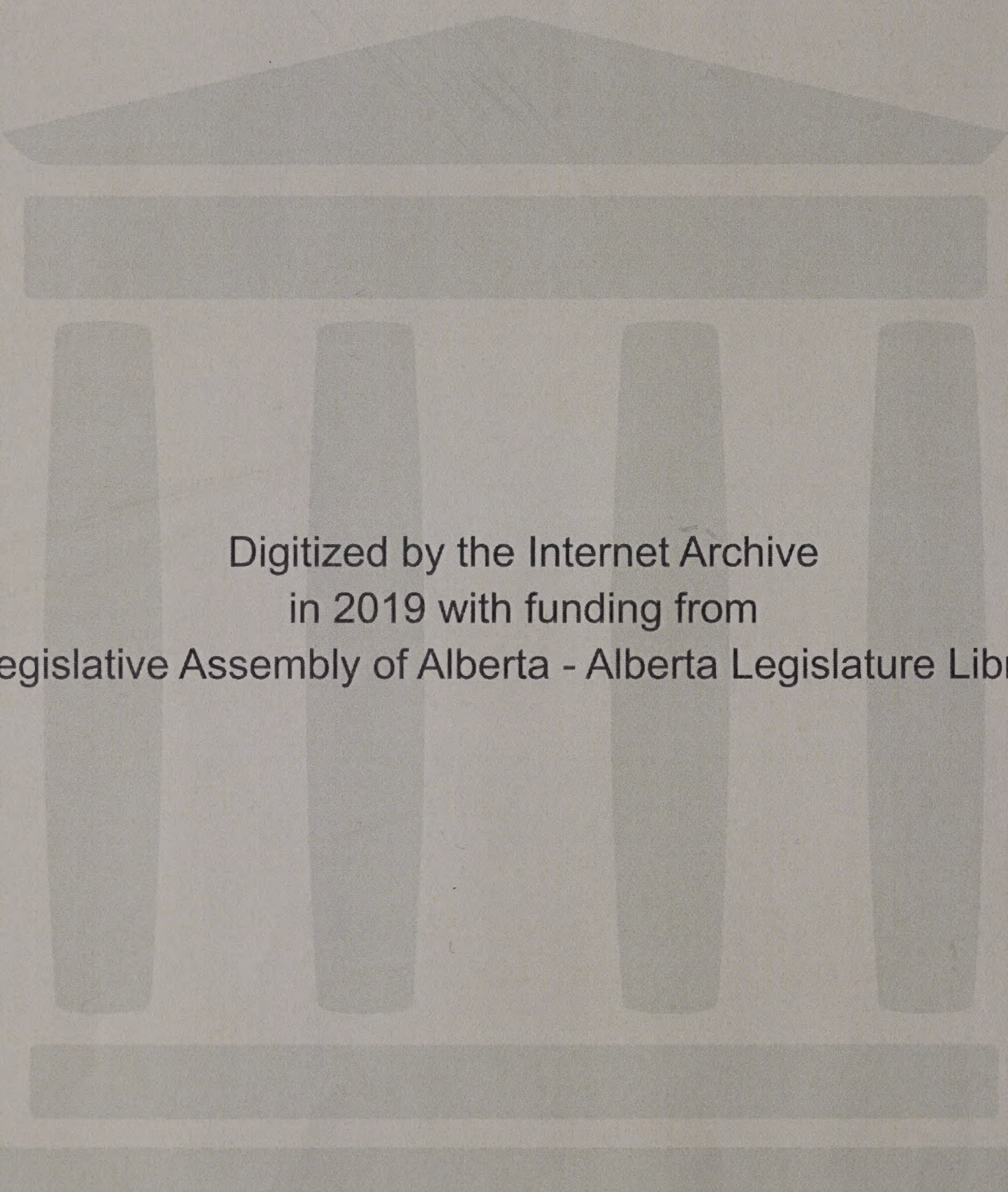
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Dated December 6th, 1926

**PETITION OF THE PROVINCES OF
ALBERTA AND SASKATCHEWAN**

Dated December 6th, 1956

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PETITION OF THE PROVINCES OF
ALBERTA AND SASKATCHEWAN

B-1827

To His Excellency The Governor in Council, Ottawa:

THE PETITION OF THE GOVERNMENTS OF THE PROVINCES OF
ALBERTA AND SASKATCHEWAN

HUMBLY SHEWETH:

1. That on the 8th day of July, A.D. 1925, the Board of Railway Commissioners for Canada (hereinafter referred to as "The Board") issued its General Order No. 420, reciting the amendment to Section 325 of the Railway Act, 1919, effected by Chapter 52 15-16 George V., and therein directed that Railway Companies subject to the jurisdiction of Parliament, file such tariffs effective within 15 days from the date of the said Order, as might be necessary to implement the provisions of such legislation.

2. That the Railway Companies affected by the said Order, that is to say the Canadian Pacific and the Canadian National Railways, have not, nor has either of them, filed any amended tariffs for the carriage of grain and flour from points west of Fort William to Fort William and Port Arthur since the coming into force of said Chapter 52, namely since the 27th day of June, A.D. 1925.

3. That both of the said Railway Companies have at all times material to this Petition taken and maintained the position that the tariffs published by them prior to the amending legislation hereinbefore referred to, complied with the spirit and intention of the said Act, and Order No. 420, and that no changes were necessary in said tariffs, which tariffs have accordingly been continued in force.

4. That the said tariffs do not comply with the provisions of said chapter 52, nor with the provisions of the Railway Act, 1919, as amended, nor with the provisions of the General Order No. 420, insomuch as rates for the carriage of grain and flour governed by the provisions of the agreement made pursuant to Chapter 5 of the Statutes of Canada, 1897, have not been applied to all such traffic moving from all points on all lines of railway west of Fort William to Fort William or Port Arthur, and the rates published in the said tariffs are unjustly discriminatory against shippers, consignees and localities within the territories of the Provinces of Alberta and Saskatchewan.

5. That on the 2nd day of September, A.D. 1925, the Board issued its Order No. 36769 directing that the Canadian Pacific and the Canadian National Railway Companies file tariffs effective not later than the 15th day of September, A.D. 1925, reducing the rates on grain and flour to Pacific ports within Canada for export, to the same rates proportioned to distance as such grain and flour would carry if moving eastward for export.

6. That within the time limited by said Order No. 36769 the said Railway Companies filed tariffs for the carriage of grain and flour to Pacific ports within

Canada for export, but such tariffs did not, and do not reduce the rates on grain and flour to the same rates proportioned to distance as such grain and flour would carry if moving eastward for export and such rates are unjustly discriminatory against shippers, consignees and localities in the Provinces of Alberta and Saskatchewan.

7. On or about the first day of October, A.D. 1925, your Petitioners applied to the Board for an order compelling the said Railway Companies to put into effect the rates required by said Chapter 52, and by the said Orders, 420 and 36769. The said applications were then adjourned sine die, but were subsequently set down for hearing, and heard by the Board on and following February 16th, 1926, separate and apart from the General Rates Investigation directed to be made by Order in Council P. C. 886 dated the 5th of June, A.D. 1925.

8. Your Petitioners established at the hearing commencing on February 16th hereinbefore referred to, that the rates published by the Railways mentioned for the movement of grain and flour eastbound to Fort William and Port Arthur from points in Alberta and Saskatchewan within the territory to the north and (with certain exceptions) to the south of the main line of the Canadian Pacific Railway, exceeded the rates published by the Canadian Pacific Railway for the movement of such traffic eastbound from points on the said company's main line, and on certain of its branches in the territory south of the main line in Alberta and Saskatchewan, by from 1 to 5 cents per hundred pounds for similar distances.

9. It was also established at the said hearing that the rates published by the Canadian National Railways for the movement of such traffic from points in Alberta and Saskatchewan eastbound to Fort William and Port Arthur varied among themselves from 1 to 5 cents per 100 lbs., for similar distances on its main lines, and branches. Your Petitioners also adduced affirmative evidence at the said hearing as to the similarity of circumstances and conditions throughout the territory in Alberta and Saskatchewan.

10. Your Petitioners further established at the said hearing that the rates on grain and flour westbound for export published by the Canadian Pacific Railway Company in purported compliance with Order of the Board No. 36769, namely the rates on the said traffic from points on the main line of the Canadian Pacific Railway Company to Vancouver were not the same rates proportioned to distance as such grain and flour would carry if moving eastward for export, but that the said rates were constructed on the basis of the actual mileage from such points to Vancouver plus 124 constructive or non-existent miles.

11. That on February 23rd, 1926, the Board rendered an oral judgment in open Court:—

- (a) That three Commissioners held that these applications should be dealt with independently of the General Rates investigation, that the applicants had made a prima facie case and that under Section 319 of the Railway Act on the railways was the burden of proving that the lower rates charged on the Canadian Pacific Railway main line did not amount to unjust discrimination against shippers located on the Canadian Pacific Railway northern branches and Canadian National Railway lines.
- (b) That the other three Commissioners held that the applications should not be disposed of independently but should be dealt with as part of the General Rates Investigation.

12. That subsequent to the 23rd day of February, A.D., 1926, your Petitioners have from time to time been urgently pressing for a date to be fixed for the final hearing of the said applications, or in the alternative for an order dismissing the said applications, but have recently become aware that the result of the judgments so delivered by the members of the Board on the 23rd day of February, A.D. 1926, has by the majority of the Board, been decided to be that the said applications of your Petitioners must be disposed of as part of, and in connection with the General Rates Investigation, and not otherwise.

13. That the rates for the movement of grain and flour from all points west of Fort William to Fort William and Port Arthur are statutory rates, and the ascertainment of what the proper rates are is in no manner dependent upon what conclusions may be arrived at in the General Rates Investigation.

14. That for the purpose of the General Rates Investigation, and to enable the Board to properly deal with the questions of equalization arising in the General Rates Investigation it is necessary and desirable that the statutory rates for the movement of grain and flour eastbound to Fort William and Port Arthur be first ascertained.

15. That the equalization of freight rates directed by Order in Council P. C. 886 contemplates the levelling up or down of rates throughout Canada in order to bring freight rates east and west more nearly to a parity, having regard to circumstances and conditions affecting rates throughout the whole country, and the said Order in Council cannot be construed as suspending the jurisdiction of the Board to hear and determine complaints involving questions of unjust discrimination.

16. That Order in Council P. C. 886 directing the present General Rates investigation expressly declares the desirability of the maximum cost of the transportation of grain and flour being determined immediately.

17. That the tariffs presently published by the Canadian Pacific Railway Company on the movement of grain and flour westbound to Pacific Coast

ports for export directly contravene Order No. 36769 hereinbefore referred to, and the publication and maintenance of the said tariffs by the Canadian Pacific Railway Company cannot be justified or excused.

18. That the 1925-26 crop and the greater portion of the 1926-27 crop have now been moved by the Railway Companies in defiance of the provisions of said Chapter 52 and of the provisions of the Railway Act, 1919, and of the Orders of the Board hereinbefore referred to.

19. That the public interest, and more particularly the interests of the grain growers of Alberta and Saskatchewan, urgently demands and demand that the applications of your Petitioners be heard and determined immediately and independently of the General Rates Investigation.

20. That there is an annual loss to the grain growers of Alberta and Saskatchewan, and a corresponding illegal gain to the Railway Companies of some millions of dollars by reason of the non-compliance by the Railway Companies with the legislation and orders of the Board hereinbefore referred to, and to permit the Railway Companies to continue to ignore the law during the progress and until the determination of the General Rates investigation, involving as the said Investigation does, between sixty and seventy submissions, applications and complaints, is a denial of justice to the grain growers, and others who are affected thereby in the provinces of Alberta and Saskatchewan.

YOUR PETITIONERS THEREFORE BY WAY OF APPEAL PRAY:

That the decision of the Board of Railway Commissioners for Canada as a result of which the determination of the applications of your Petitioners hereinbefore referred to are and have been postponed until the hearing and determination of the General Rates Investigation, be rescinded, and that the Board be directed to hear, dispose of and determine the said applications of your Petitioners independently and in advance of the General Rates Investigation and that such hearing and disposition do take place immediately, or for such further or other order as may be just.

AND Your Petitioners will ever pray.

DATED at Edmonton and Regina this 6th day of December A.D. 1926.

S. B. WOODS,

Of Counsel for the Government of the Province
of Alberta.

W. H. McEWEN,

Of Counsel for the Government of the Pro-
vince of Saskatchewan.

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